

NAACP/LINCOLN PETITIONS CONGRESS

The Lincoln, Nebraska chapter of the NAACP has called on the US Congress to open the files of the FBI's Counterintelligence Program of the 1960s, and investigate what role the FBI played in Ed and Mondo's case. J. Edgar Hoover established the program (dubbed COINTELPRO), and ordered all-out war against Black Panthers, peace movement activists, and other political dissidents. The Lincoln chapter has also asked that the national office of the NAACP join in persuading Congress to investigate.

Ed and Mondo are not alone: California's Geronimo Pratt, another Black Panther who claims he was framed with the help of the FBI, has finally won a court hearing. The judge's decision is pending. Leonard Peltier of the American Indian Movement is another political prisoner who continues to maintain his innocence.

With this action, the Lincoln NAACP has joined Amnesty International in questioning Ed's and Mondo's conviction. Amnesty's Secretary General wrote to Nebraska's then Attorney General Robert Spire in 1990, and called for a new trial for Ed and Mondo.

Since 1992, the Nebraska Parole Board has annually recommended parole for these two men, but petty politics has interfered with justice in this case: Nebraska law requires that those sentenced to a life term are not eligible for parole until the Nebraska Board of Pardons commutes their life sentences to a specific number of years. Unfortunately, Governor Ben Nelson and Attorney General Don Stenberg were both campaigning for the US Senate, and used Pardons Board meetings to prove who's "tougher on crime." The merits of individual cases were not an issue.

More recently, Hal Daub proved he was willing to play the race card to win, when he ran "Willie Horton" ads against his opponent, Brenda Council, charging her with -- yes, that's right -- being "soft on crime," because she had joined a 1994 effort to petition the Pardons Board to commute Mondo's sentence.

Both Stenberg and Nelson lost their bids for the US Senate, and Daub won by fewer than 1,000 votes. Perhaps the shameful history of using race scare tactics is finally running its course.

"Purpose of counterintelligence action is to disrupt BPP [Black Panther Party] and it is immaterial whether facts exist to substantiate the [charges]." FBI Memo, 9/16/70

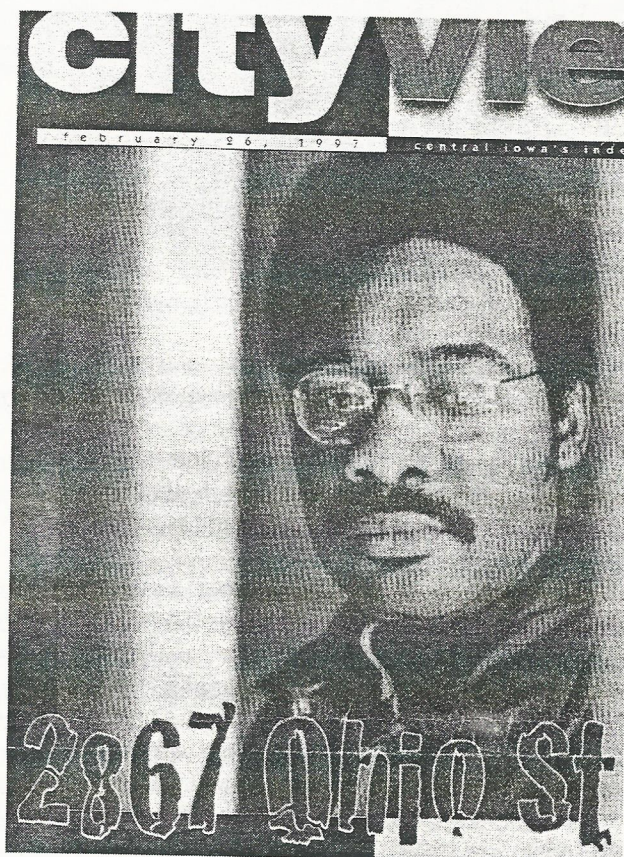


Photo provided by Journal Star Printing Co.

2867 OHIO STREET

by Cory Zurowsky

Early Monday, Aug. 17, 1970. A few minutes past 2 a.m. A police dispatcher in Omaha receives a phone call. There's a rape in progress. A screaming woman is being dragged into an empty house on the city's North Side.

"Yeah man, uh, I'm here on 20, 20, 28th and Ohio, man," the man says in a gruff, low voice. "The address is 28..., 2866 or 2867, it's an old vacant house. And, and this dude has drug this woman off in there, and she's screaming and shit and I don't know what's going on..."

The operator asks if 2867 Ohio is the correct address.

"2866 or 2867," the caller responds. "It's an old vacant house with a bunch of weeds around it."

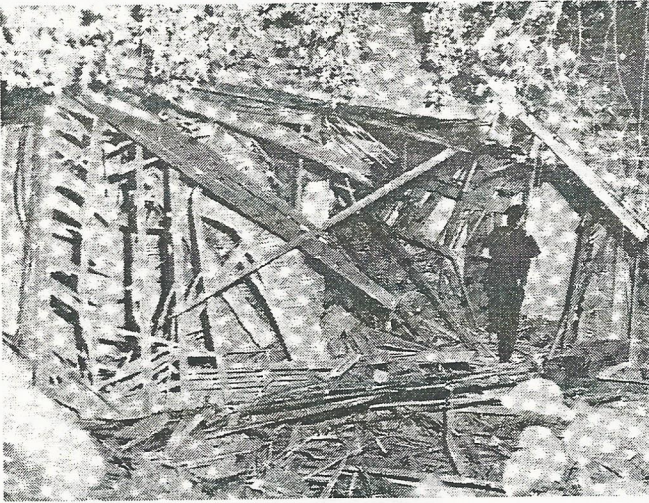
"What's your address, sir."

"My address is 2865."

"65 Ohio. All right," says the dispatcher, "we'll have an officer check it out, sir."

Patrolmen Michael Lamson and James Sledge are routed. Officers Larry Minard and Dennis Moran, patrolling nearby, drive to the scene. They arrive first. Four other policemen also respond.

Officers Paul Rust and Ken Tworek inspect the exterior of 2865 Ohio. The house is abandoned. They find



2867 OHIO STREET AFTER THE BLAST.

nothing. No one hears the shrieks.

Lamson and Sledge are last on the scene. They park near 2867 Ohio and yell to the others that they're investigating the wrong address.

Five officers enter 2867 through the front door. On the porch they notice a suitcase lying flat. It's sticking halfway out of the doorway. "That suitcase might belong to the girl," Lamson says.

They step over it. The officers fan through the darkened house with flashlights. Finding nothing, Minard and patrolman John Tess start toward the front door. In the kitchen, located in the rear of the building, are Sledge, Lamson and Tworek. Minard approaches the suitcase. Tess stands only a few feet away. As Minard inspects the suitcase, he either kicks or stumbles over it.

The suitcase explodes. Minard, 29, a seven-year veteran and father of five, is killed instantly. Seven other officers are injured. The blast mangles neighboring houses and ruptures utility lines.

Lamson radios for help. Sledge and Tworek go to the front of the house. They find Tess on the floor, four feet away from Minard's body.

Rescue squads arrive at 2:13 a.m. As rain begins to fall an hour later, police and five officials cover the wreckage with canvas. Minard's body is tagged and bagged at 3:50 a.m.

Public Safety Director Al Pattavina calls the explosion "a setup." The bomb-laden suitcase was rigged to explode when lifted, he concludes.

"Whoever did it," says Pattavina, "was bound and determined to get a policeman."

GAME

Hours after the blast, hordes of angry policemen storm City Hall to meet with the Mayor. "We go in there to help somebody, and they kill us," Officer John Toay tells the *Omaha World-Herald*. "Isn't that something? They call us to help somebody, and the building blows up."

The week following the bombing, Omaha police launch a massive investigation. They interrogate hundreds.

Officials have a handful of suspects by the end of August. Included are 15-year-old Duane Peak; David L. Rice, 23; and Ed Poindexter, 25.

Peak and Poindexter are Deputy Chairman and

Deputy Minister of Information, respectively, of the Omaha Chapter of the National Committee to Combat Fascism (NCCF), a spinoff of the Black Panther Party.

While in custody, Peak confesses. He also rats on Rice and Poindexter. The teenager says his co-conspirators devised the plan, and he carried out their orders by putting the suitcase at 2867 Ohio and making the bogus emergency call.

Rice and Poindexter are in the Douglas County jail before the end of August, where they remain for the next seven months.

WARFARE

The August sabotage in Omaha wasn't an isolated affair. It's the summer of 1970. Nixon owns the Oval Office. The boys fight the Vietcong in the jungles of Southeast Asia. The American Heartland is in the midst of a guerrilla war.

In Central Iowa alone, there are five incidents spanning a six-week period:

On May 13 at 4:30 a.m., an explosion rocks the Des Moines police station. Nobody is killed, but the building suffers \$200,000 in damage.

Ten to 15 pounds of high-powered dynamite are used in a daylight blast at the Ames police station nine days later. Ten people are hurt.

In mid-June the downtown Greater Des Moines Chamber of Commerce building is another casualty.

Des Moines police receive an anonymous tip from an unidentified woman on June 21. She says she witnessed a "suspicious hippie-type" place a package beneath a pedestrian overpass near the MacVicar Freeway at 23rd and Cottage Grove. Officer Harold Morton finds the booby-trapped metal tool box with two sticks of dynamite. The device malfunctions, failing to discharge.

On June 29 an explosion rips a building at Drake University.

Bombers strike other Midwestern cities as summer rolls forward.

A business in North Omaha is hit July 2.

An hour after Minard's murder, a bomb detonates at a Minneapolis federal building.

On August 24 an explosion rocks the Sterling Hall physics building at the University of Wisconsin in Madison.

Three smaller blasts are set off Sept. 2 in St. Paul.

SLANT

The bombings in Central Iowa remain unsolved. The prevailing theory among law enforcement, however, is that the Black Panthers were responsible.

"It was pretty much decided by us that members of the Panthers were doing the bombings," says former Des Moines Police Chief Wendell Nichols.

"There was quite a bit of suspicion that pointed to them," says John Tinker, an agent from '68 to '93 with the Iowa Division of Criminal Investigation. "When you're investigating these types of cases, you ask yourself, 'Who could do this?' The Panthers were very vocal with their opinions toward government, always saying things like 'Kill the pigs.' Obviously their rhetoric had a lot to do with our suspicion."

Poindexter and Rice -- who has since changed his name to Mondo we Langa -- were never granted the luxury of conjecture. Ever since Peak's damning statements, they've

been branded cop killers.

Both were found guilty of first-degree murder in April of 1971 and sentenced to life in prison.

In contrast, Peak, who allegedly copped a deal with the prosecutor's office, spent only a matter of months in Nebraska's juvenile detention system. He was released and disappeared.

Though it's been nearly three decades since a jury shipped Rice and Poindexter to the big house, their case still spurs rabid debate. There are many who believe Rice and Poindexter were victims of a railroad job, orchestrated by law enforcement. Some heave charges at the Omaha PD, others the FBI.

"Neither one was capable of murder," says Marj Mariette, a former reporter for the *Lincoln Journal*. "It is my belief that these man have served 26 years in prison for a crime they didn't commit."

ASSASSINS

An unnamed informant reportedly told police that a family had information about the bombing. Late on August 21, officers detained 18-year-old Annie Lee Norris. She said Peak possessed a suitcase the day before the blast.

After issuing an arrest warrant for Peak on August 22, police looking for the juvenile rummaged through Rice's abode at 2816 Parker Street. It was nightfall. The house was vacant. Rice was in Kansas City.

It was a big score. The police report filed after the search reads, "...found in house, two rifles, one shotgun, and one pistol... Also found, four blasting caps ... in the living room against the east wall was a Marathon 6 volt battery of the type that could be used to construct a bomb... Found in the basement in the northwest corner, 15 sticks [of dynamite].

The document doesn't show who discovered the explosives. Moreover, investigators never photographed the dynamite in Rice's house. Rather they snapped pictures of the contraband in the trunk of a squad car at the police station.

Once in custody, Rice and Poindexter were checked for traces of explosives. A chemist from the Bureau of Alcohol, Tobacco and Firearms (ATF) determined that Poindexter had specks of dynamite in a pocket of his camouflage jacket. Particles were also detected inside a pocket of Rice's pants.

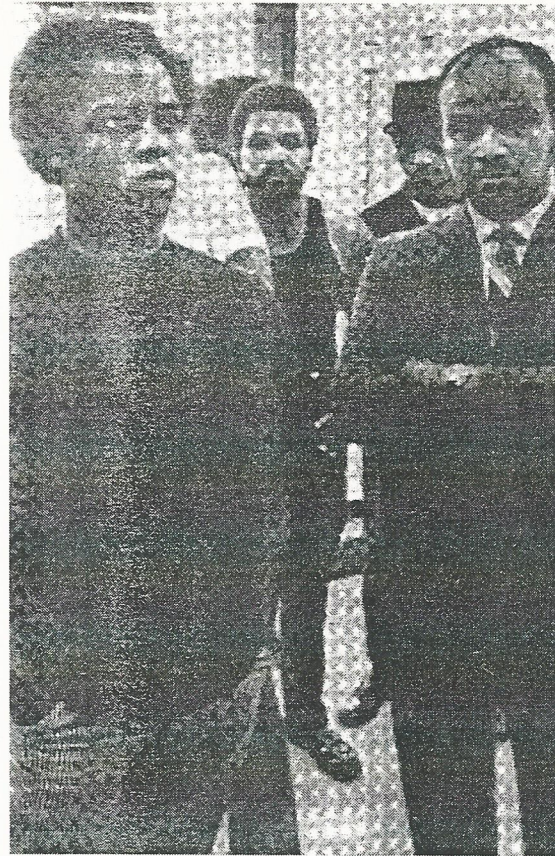
The discovery of explosives in Rice's basement, coupled with the detection of dynamite particles on the defendants' clothing, supplied the state with heavy circumstantial artillery. But prosecutors needed more ammo if they were to walk away with convictions.

"It was pretty clear that absent the testimony of Duane Peak, it would have been a weak circumstantial case of murder," said prosecutor Sam Cooper in a 1991 interview. "He was critical to the case."

Peak eluded authorities for nearly a week -- until his grandfather, Rev. Foster Goodlett, provided a tip. On August 28, as he slept on the back porch of a house, Peak was captured.

Under questioning, the teenager said he changed his tone of voice when he placed the telephone call. At first he didn't implicate anyone else. But three days later, Peak altered his story.

"He [Poindexter] said he was going to make a bomb



Rice at the police station lobby, hands in pockets, moments before he was checked for traces of explosives. An ATF chemist determined that particles were inside a pocket of Rice's pants. No particles were found on his hands. PHOTO PROVIDED BY OMAHA WORLD-HERALD

and that he was going to plant it in a house and have somebody call the police up there," Peak told prosecutor Arthur O'Leary on August 31.

Peak also described a series of meetings with his co-conspirators, in the days prior to the blast: he was in Rice's kitchen when Poindexter produced a box of dynamite from the basement. Rice and Poindexter advised him of the plot and requested his assistance, Peak explained.

The trial lasted four weeks. The jury, consisting of 11 whites and one black, deliberated almost four days. After finding both defendants guilty, the jurors had a choice: the death penalty or life imprisonment.

Rice and Poindexter would be spared the chair. Within an hour after the jury's decision, both men were en route to the state penitentiary in Lincoln to begin serving life terms.

Authorities in Omaha concluded the blast was a local case. Although the suitcase bomb was the same kind used in the Des Moines incident on June 21, they maintained that it had no link with other Midwest bombings.

PATSIES

"I had to be really satisfied of ... guilt before I would prosecute, and I was," said prosecutor O'Leary after the trial.

During the first four days of his confinement, Peak only made statements on August 28 and 31. No records exist from the other two days, according to police documents.

Rice and Poindexter's defense lawyers never received a recording of the emergency call. A memo dated October 1970 shows the tape was withheld because some within the Omaha PD feared it might damage their case.

"Omaha PD advised that he feels that any (cont. on p. 5)

NEBRASKA PEN LOCKDOWN: A RESPONSE TO GRIEVANCES

by Mondo we Langa

Since approximately 3 p.m. on May 11, 1997, the Nebraska State Pen has been on what the prison administration refers to as a "modified lockdown." According to a memo we received May 13, the decision to place the joint on lockdown "was based on concerns for the safety and welfare of staff and inmates. Information available to staff included reports of peaceful protests and the possibility of aggressive actions on the part of some inmates."

Were the prison administration's concerns, as expressed in the Warden's memo, warranted? It's possible. And, without a doubt, the administration has a responsibility to make every effort to maintain a condition of safety for prisoners and staff. But while this lockdown may have averted some form or other of mass protest, it has done nothing to address the issues which have given rise to what protests there may have been or may be in the future.

Over the past couple of years, there has been a great deal of media attention paid to the issue of "frivolous" lawsuits being filed by prisoners, both locally and nationally. Typically, examples are cited that are anywhere from frivolous to downright silly, and these are put forward to the public in such manner as to give the impression that prisoners have no valid complaints and simply file lawsuits in order to kill time and/or to get back at "the system" for locking them up.

But the fact is that, in this prison as in others, prisoners file suits to get relief from policies and practices that are unreasonable, inhumane, and/or otherwise warranting relief. Moreover, these suits are filed because in-house grievance procedures tend to do nothing more than trivialize prisoners' complaints and begin and end with the presumption of rightness with respect to institutional policies and practices and those who implement them.

In the Nebraska Prison, there is a rules-and-regulations handbook containing a couple of dozen rules. But there are administrative regulations, official memoranda, a set of rules called "post orders" (which prisoners aren't allowed to see), and an interesting little item called "cut-and-paste," which essentially means that prison officials can alter rules whenever they get the whim to do so. Altogether, prisoners are subject to several *hundred* rules. When a prisoner violates, or is accused of violating, a rule and receives a misconduct report, he is subject to "stacking," a practice in which several charges are listed on the report, apparently to insure that the accused prisoner will be found guilty of something. The most widely used charges employed in "stacking" are "disobeying direct orders" and "disruption of authorized duties," charges that often have either nothing to do with the actual alleged infraction or are simply unfounded. Penalties for infractions include room restriction, extra (work)duty, placement in segregation, loss of "good" time, etc.

In addition to the large number of rules, many of which have no bearing on issues of institutional safety, security, or other valid institutional concerns, prisoners are faced with arbitrary enforcement, guards and other staff who

are rendered incompetent by personality disorders -- not the least of which is racism -- and a myriad of other situations that contribute to a buildup of anger, frustration and resentment.

Toward the end of April of this year, a new rule went into effect which stops prisoners from being able to purchase stamps from the prison store and from receiving them in the mail. The prison administration claims that the use by some prisoners of postage stamps as currency made this policy change necessary. Under the new policy, prisoners must purchase stamped envelopes from the prison store but may not receive stamped envelopes through the mail. This poses a problem for the many prisoners who make less than \$2 a day from their prison work assignments. And while a person who is corresponding with a prisoner might be easily able and willing to send a stamp or two with a letter, he or she might not be so able or willing to send a check or money order in an amount to enable the prisoner to purchase a couple of stamps.

As of the beginning of June, prisoners will no longer be able to call anyone by phone who will accept his collect call but will have to submit a list of a maximum of twenty persons. And all calls -- supposedly, with the exception of calls to attorneys -- will be taped and monitored. The institution cites alleged conducting of unlawful transactions over the phone by some prisoners, as well as alleged complaints from people who have received unwanted third-party calls from prisoners, as reasons for this change in the phone policy.

A likely result of the combination of the new policy regarding postage stamps and that regarding phone use will be a substantial decrease in prisoners' maintenance of communications with family members and other loved ones. And while the prison clearly has a legitimate interest in minimizing the participation of illegal activities by persons under its charge, it also has a responsibility to respect the privacy of persons who are not in prison and retain their rights of citizenship. And if it is the job of a prison to return released prisoners to their communities as better people, then it has a responsibility to maintain a prison environment that is conducive to a prisoner's improvement in attitude, life skills, etc.

By maintaining an environment in which prisoners are confronted with a myriad of petty and unreasonable rules, in which prisoners have no reasonable expectation of relief from arbitrary and/or unfair treatment, in which the actions and alleged actions of a few are routinely used as excuses for the punishing of the many, in which programs providing opportunities for self-betterment are steadily eroding, the institution is placing at risk the healthy attitudes of prisoners and making anti-social and otherwise unhealthy attitudes worse. In the process, it is recklessly endangering the people in the communities to which prisoners eventually return. If a person's prison experience has been one in which he has generally seen himself as a victim of abuse of authority and in which he has been held responsible for the actions and alleged actions of others, what kinds of attitudes do we expect that that person will bring to the neighborhood he will return to upon his release? Lastly, while the much-publicized overcrowding at the prison does pose special problems, it is not overcrowding that is responsible for the policies and practices spoken of and alluded to here, but the authoritarian and reactionary *mind-set* of prison officials.

2867 OHIO ST. (cont. from p. 3) use of tapes of this call might be prejudicial to the police murder trial against two accomplices of PEAK," reads the letter written by an FBI agent in Omaha to Director J. Edgar Hoover in Washington. "And, therefore, has advised that he wishes no use of this tape until after the murder trials of PEAK and the two accomplices has been completed."

The tape was never presented as evidence at the trial.

After being detained in jail in Omaha, Peak was stashed for six months in Fremont, Nebraska. In a deposition taken during that period, a defense lawyer asked Peak about the phone call.

"What did you want to get over to the police officer with the voice that you used?" the lawyer asked.

"Make it sound like I was excited or something," Peak replied.

"And you did this by raising your voice and sounding in an excited manner?"

"Yes."

Defense attorney David Herzog, who represented Rice, says the deep voice on the recording "could never be attributable to Peak. The voice sounds like Darth Vader, not some 15-year-old kid."

Herzog adds that, while in custody, Peak gave no less than seven different stories recounting the crime.

Peak took the stand September 28 at a preliminary hearing. The defense objected, implying that Peak's testimony could have been coerced or bargained for.

The judge rejected all objections.

Peak was asked about his August 10 meeting with Poindexter at Rice's house. He shocked the courtroom by denying the meeting in Rice's kitchen took place.

A sudden recess was called by the prosecution, court records show. The teen was whisked off to the police station.

Peak returned to the stand later in the day. His eyes were puffy, red. He donned sunglasses and looked shaken.

There were no surprises the second time around. Rice and Poindexter had devised the plan to make the bomb, Peak testified.

Herzog's cross examination came next. According to the court transcript, the following dialogue took place:

"...You are shaking and nervous right now, aren't you?" he asked.

"Yes," Peak said.

"You weren't shaking or nervous this morning, were you?"

"No."

"

What happened to make you shake and bring your nervous condition about right now?"

"I don't know."

"You had a conversation between the time you were placed on the witness stand this morning and the present time; now isn't that correct?"

"Yes."

"Weren't you reminded of a few things that would happen to you if you didn't testify?"

"Yes."



"I do know that most ... [law enforcement officials] did not care whether I was innocent or guilty." Mondo we Langa

PHOTO PROVIDED BY JOURNAL STAR PRINTING CO.

"And those were the same things that the police officers told you about that would happen to you, like sitting in the electric chair, isn't that correct?"

"I didn't have a chance."

"You didn't have a chance, did you?"

"No."

"You are doing what they want you to do, aren't you?"

"Yes."

Soon after the hearing, Peak penned a letter to Olivia Norris, who essentially served as his mother (Peak's real mother died when he was young). "They had me in court today! I guess you already know that by now. The Lord knows I tried but something happened which forced me to realize that I had no alternative but to say what I said. No matter what anyone says from now on, I refuse to call myself a man, or anything close to a man because I did what I did. Even though there was no other way, because they already had enough evidence to convict those other two bloods.

"Maybe I'm just trying to get somebody to say what I did was justifiable, but I know it can't be justified. I not only turned against those two bloods, but I turned against myself and my own people. I could have denied everything and all three of us would have gone to the chair. And then, again if I denied everything one of those bloods would have gave them a story and sent me and the other dude up. But neither one of those is the reason, I was scared a little, but that's not the reason. I guess I'll never know."

On the day Rice turned himself in, the Omaha *World-Herald* captured a photo of the suspect in the police station lobby with his hands in his pockets. Tests for explosives followed shortly after the picture was taken.

Traces of dynamite were found on Rice and Poindexter's clothes. But neither had particles on their skin, the ATF chemist determined. Gloria Bartek, a member of the Community Response Association, the defendants' defense committee, doesn't understand why grains of dynamite weren't found on Rice's hands, if the photograph shows they were in the pockets in which the police claimed to find dynamite.

Former Nebraska Gov. Frank Morrison, who also served as a Douglas County public defender representing Poindexter, maintains the defendants were victims of a setup.

"The reason they were suspected was because they were members of the Black Panthers. They [authorities] had a couple of young Blacks who everybody knew used incendiary language -- hateful things that irritated the police. They weren't convicted of murder. They were convicted of rhetoric. The only thing these young fellas did was try to combat all the racial discrimination of the time the wrong way."

Last fall Mondo we Langa (a.k.a. David Rice) wrote: "...I do know that most or all of them [law enforcement officials] did not care whether I was innocent or guilty."

FACTIONS

Former FBI chief J. Edgar Hoover, who once called the Black Panthers "the greatest threat to the internal security of the country," initiated a new brainchild in 1967. The Bureau's fresh counterintelligence endeavor was aimed at "Black Nationalists." It was called COINTELPRO. Its mission: splinter groups like the Panthers.

"The effectiveness of counterintelligence depends on ... the imagination and initiative of Agents," reads a 1968 FBI memo. "Purpose of counterintelligence action," reads another Bureau dispatch dated Sept. 16, 1970, "is to disrupt BPP and it is immaterial whether facts exist to substantiate the [charges]."

Repeated phone calls to the Omaha PD weren't returned. An official at FBI headquarters in Washington stated they have no information about the counterintelligence program. Agent Larry Holmquist in Omaha said he wasn't aware the Rice/Poindexter case even existed. Saying he's been "swamped lately" with information requests, he added it could take months to locate any documents.

Former Des Moines Black Panther Ako Abdul Samud says members of the group made easy targets. He likens their plight to what happened when the federal building in Oklahoma was destroyed.

"All of a sudden the media had a bunch of Mideast experts talking about who could be responsible for the bombing," he says. "You never heard anyone talking about militia groups in this country that could be responsible."

"At that time, it was easy for authorities to pin it on the Panthers. But across the board, if you look at a lot of these

WHAT YOU CAN DO:

Write! Nebraska Senator Bob Kerrey, and ask him to help open a Senate investigation of the FBI's COINTELPRO program of the 1960s and 70s, to see what role the FBI played in Ed and Mondo's case. **Send a copy!** to the Black Congressional Caucus.

AND PLEASE! If you are working for other political prisoners incarcerated through COINTELPRO, **contact us**, and let's try to coordinate our efforts.

MANY THANKS to those of you who have sent money in the past, to help pay printing and mailing costs of the *Chip*. We need you help now, if we're to continue publishing. Please write checks to: Gloria Bartek, Editor, Community Response Assn., 1314 S. 9th Street, Omaha, NE 68108.

cases, it appears that their guilt was planned and the cases made against them were manufactured."

Defense committee attorney Rae Ann Schmitz was with Rice on the night of the bombing. She argues that Rice and Poindexter are political prisoners.

"I believe they were implicated in crimes as a result of the FBI's COINTELPRO activity," she says. "The evidence in this case shows that everything used against them was very planned. It was more than just a series of weird coincidences."

An FBI memo dated Oct. 29, 1968 reads that the goals of COINTELPRO were: "...Prevent these militants from gaining respectability... expose or neutralize them..."

Jack Swanson, formerly of the Omaha PD, said in a 1991 interview that officials got the right people. "We feel we got the two main players in Rice and Poindexter. I think we did the right thing at the time because after the trial the Black Panthers completely disappeared from the city of Omaha."

Thanks to cityview, a Des Moines weekly, for permission to reprint this article, and special thanks to Cory Zurowski for his cooperation.

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Monday, June 30, 1997 - Lincoln Journal Star

Anti-government rant (circa 1970): Rice-Poindexter revisited

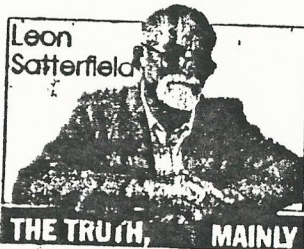
Ever since the Oklahoma City bombing, I've not been able to stand anti-government ranters. You know, the militia types who keep watching for black helicopters to shake their fists at.

But then a couple of weeks ago, I read about a California judge, Everett Dickey, who had overturned Geronimo Pratt's 1972 murder conviction, and I listened again to my own anti-government rants, circa 1970.

The basis of Dickey's reversal was that the FBI hadn't played fair.

Pratt was a decorated Vietnam vet and a practicing Black Panther when he was found guilty of a 1968 murder in Santa Monica. He claimed that at the time of the killing he was nearly 400 miles away at a Black Panther meeting in Oakland.

The key prosecution witness was a fellow Black Panther named Julius Butler, who testified that Pratt



had confessed to him.

The trouble, Dickey ruled, was that the prosecution had neglected to tell the jury that Butler was a paid infiltrator and informant for the FBI. So, after 25 years, Dickey ordered a new trial for Pratt and released him on \$25,000 bail.

To get a sense of why the judge felt Butler's FBI connection should have been made clear, you need to remember that J. Edgar Hoover had a thing about Black Panthers. So did

a lot of white Americans. We were uncomfortable around them because they accused us of rotten things.

But, as director of the FBI, Hoover didn't have to put up with being accused of rotten things. He called the Panthers "the greatest threat to the internal security of the country" and established a sub-agency — spiffily named COINTELPRO — to "prevent these militants from gaining respectability ... (to) expose or neutralize them."

In other words, as an employee of Hoover's FBI, Butler may have had a conflict of interest that the jury should have known about.

Is this starting to sound familiar? That Rice-Poindexter case just won't go away, will it?

David Rice and Ed Poindexter are one-time Black Panthers who are serving life sentences for the 1970 booby-trap killing of an Omaha policeman, Larry Minard. Both

maintain their innocence. Both, like Pratt, say they're political prisoners, victims of COINTELPRO zeal.

If you're an anti-government (circa 1970) bleeding-heart liberal, it's easy to see parallels between their case and Pratt's.

The key witness in their trial was Duane Peak, a 15-year-old who admitted putting a suitcase bomb in an empty house, then luring police there with a phone call about a screaming woman. Minard was killed when the bomb exploded as he moved the suitcase.

Peak testified that Rice and Poindexter put him up to it. They made the bomb, he said, and they hatched the plot.

But he changed his story several times, most dramatically between a morning session and an afternoon session in court. So anti-government types (circa 1970) worry that Peak's testimony may have been coerced by government bullyboys.

We also worry about a document (obtained through the Freedom of Information Act) that says FBI tapes of Peak's phone call shouldn't be made available because they "might be prejudicial to the police murder trial."

Peak spent four years in juvenile detention, then disappeared.

Here's the anti-government question that gives us the fantods: If Butler's testimony against Pratt was tainted by his possible conflict of interest as an unacknowledged FBI employee, is it unreasonable to ask whether Peak's testimony was similarly tainted? Not that he was paid for his testimony in cash, but because he might have been paid with minimal punishment and relocation out of the state.

But that's a mere technicality, my current self tells my 1970 self, having nothing to do with the guilt of Rice and Poindexter. Then I remember the words of former Gov.

Frank Morrison:

"They weren't convicted of murder. They were convicted of rhetoric."

So I continue to ask myself 2 a.m. questions: What if Larry Minard's killer is still out there somewhere? What if two men are about to begin their 28th year in prison, not for what they did, but for what they said?

That's about the time I imagine the knock on the door that means the FBI has come to bring me in for entertaining subversive questions. I drink my glass of milk and eat my graham cracker. Then I go outside with the other anti-government loonies to look for black helicopters to shake my fist at.

I can't stand it.

Lincoln English professor Leon Satterfield writes to salvage clarity from his confusion. His column appears on alternate Mondays.



amnesty international

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AMR 51/90/25

7 November 1990

Dear Attorney General,

I am writing to express Amnesty International's concerns about the case of David Rice, whose appeal against the US District Court's denial of habeas corpus relief is currently pending before the Eighth Circuit Court of Appeals. David Rice was convicted of first degree murder in the state of Nebraska in April 1971.

As you may be aware, Amnesty International is a worldwide, independent movement which seeks the release of prisoners of conscience: people detained on account of their political, religious or other conscientiously held beliefs, ethnic origin, sex, colour or language, provided that they have not used or advocated violence. Amnesty International also works for fair trials for political prisoners and against the death penalty and the torture or other cruel, inhuman or degrading treatment of all prisoners. Our concern in this case is that David Rice may have been denied a fair trial on account of his political beliefs and activities.

Amnesty International has been investigating the case of David Rice for many years, together with that of his codefendant Edward Poindexter. Both have maintained their innocence of the murder of which they were convicted in 1971 and allege that they were "framed" because they were leading members of the National Committee to Combat Fascism, an offshoot of the Black Panther Party. Amnesty International is unable to reach a firm conclusion on the guilt or innocence of either accused. However, we believe there is evidence to suggest that the authorities may have acted improperly to secure a conviction. Amnesty International published a report in 1981 which found that irregular conduct by the FBI during its Cointelpro operations had undermined the fairness of trials of a number of political activists during the 1970s, including members of the Black Panther Party. Although the record of FBI involvement in

this case remains unclear, the existence of Cointelpro and its targetting of black nationalist groups during this period reinforces our concern that David Rice and Edward Poindexter may have been unfairly prosecuted. Despite numerous appeals to date, these issues have not been resolved. Our concerns include the following:

The case against David Rice and Edward Poindexter was based largely on the testimony of 16-year-old Duane Peak who admitted planting the bomb and making a 911 call which lured a police officer to his death. Duane Peak, then aged 15, was arrested some ten days after the incident in August 1970. He later implicated Rice and Poindexter but changed his testimony several times between deposition and trial. Several other persons implicated by Peak were never prosecuted. During the trial of David Rice and Edward Poindexter, Peak gave a detailed description of how Poindexter had assembled the bomb in his presence, stating that he himself had had no prior knowledge of bomb construction. However, he revealed under cross examination that he had discussed making a bomb with his cousin before August 1970 - testimony corroborated by the cousin later in the trial. Peak also revealed under cross examination that he had talked many times with the prosecutor about how the bomb was assembled prior to giving testimony at trial. Although he was a major suspect in the murder case, there is no doubt that Duane Peak received special treatment after his arrest, including being allowed out of jail to see his family and being taken to dinner by police officers, information which was brought out at the trial. Although initially under threat of a potential death penalty, Duane Peak was prosecuted for juvenile delinquency after Rice and Poindexter's convictions; he was released after spending a short time in a youth training centre and has since disappeared. Although the defence has been unable to establish a prior agreement by the prosecutor to treat Peak leniently in exchange for his testimony, it seems clear that the chief prosecution witness had a vested interest in the outcome of the trial. Amnesty International has studied the trial transcript in this case. While we do not suggest that the trial court or jury acted improperly on the evidence presented, we believe Peak's reliability as a witness to be questionable under the circumstances.

The other evidence at the trial were dynamite and blasting caps found by the police at David Rice's home during a search conducted in his absence in August 1970 and particles of ammonia dynamite found on Rice and Poindexter's clothing. Rice, who had left town earlier that day, alleges that the dynamite evidence was planted and has stated that he would not have left incriminating evidence at his house knowing that he was under surveillance by the police. He gave himself up voluntarily to the police after learning that a warrant for his arrest had been issued. In 1974 a federal district court overturned David Rice's conviction and ordered that he be retried or released, on the ground

NAACP seeks hearing for 2 jailed in killing

March 20, 1997

BY DON WALTON Lincoln Journal Star

The latest appeal on behalf of David Rice and Ed Poindexter is headed for Attorney General Janet Reno and members of Congress, rather than the courts.

Rice, now known as Mondo we Langa, and Poindexter were convicted in 1971 for the murder of Omaha policeman Larry Minard and sentenced to life. They have been imprisoned for 26 years.

The Lincoln branch of the National Association for the Advancement of Colored People has asked the NAACP national board and the Congressional Black Caucus to join it in seeking a hearing before the Senate Intelligence Committee on FBI activities that may have led to the "frame-up" of the two men.

Lennox Hinds, a professor of law and criminal justice at Rutgers University who has been active in representing the interests of Rice and Poindexter, was in Lincoln Wednesday to discuss the case.

"I've been involved for over 20 years because I happen to think an injustice has been done," Hinds said. "I am prepared to assist in any way."

"We are exploring judicial relief based on newly discovered evidence, but we are also exploring the political arena," Hinds said.

"We are in the process of asking for a congressional investigation now."

Recent efforts to gain commutation of the life sentences were rejected by the Nebraska Pardons Board.

At issue is the contention that the FBI targeted Rice and Poindexter



HINDS
of Rutgers

as part of a national counterintelligence effort by J. Edgar Hoover to silence the Black Panther Party and that they may have been framed for the bomb slaying of Minard. The pair were leaders of the Omaha chapter of the

Committee to Combat Fascism.

New information that wasn't available at the trial indicates the likelihood of "obstruction of justice" committed through collaboration between the FBI and the Omaha Police Department, Hinds said.

After investigating the case, "I came to believe in the innocence of Rice and Poindexter," he said. "This is a question of fairness and justice."

"Evidence and events indicate that Rice and Poindexter were targeted by the FBI's infamous 'cointelpro' program and subsequently framed for the murder of an Omaha police officer," the NAACP's Lincoln chapter wrote the Congressional Black Caucus.

The letter asks Congress to "open the FBI files, investigate the FBI's 'cointelpro' operation and, in essence, help correct an injustice that has now lasted over 26 years."

MEMO OBTAINED THROUGH THE FREEDOM OF
INFORMATION ACT:

DIRECTOR, FBI (157-8415)

10/13/70

SAC, OMAHA (157-887) (P)

DWAYNE CHRISTOPHER PEAK,
ET AL
BM - RM

ReBulet to Omaha dated 9/17/70 entitled "UNSUB;
Bomb Explosion 2867 Ohio Street, Omaha, Nebraska, 8/17/70,
RM".

In a preliminary hearing held 9/28/70 in Municipal
Court, Omaha, PEAK testified that he had made the telephone
call to the Omaha PD telling them that a woman was screaming
in a house at 2867 Ohio Street. Police Officer LARRY MINARD
was subsequently killed when a bobby trap suitcase exploded
as he, with other officers, answered this call.

Assistant COP GLENN GATES, Omaha PD, advised that
he feels that any use of tapes of this call might be prejudicial
to the police murder trial against two accomplices of PEAK and,
therefore, has advised that he wishes no use of this tape
until after the murder trials of PEAK and the two accomplices
has been completed.

UACB, no further efforts are being made at this time
to secure additional tape recordings of the original telephone
call.

2 - Bureau
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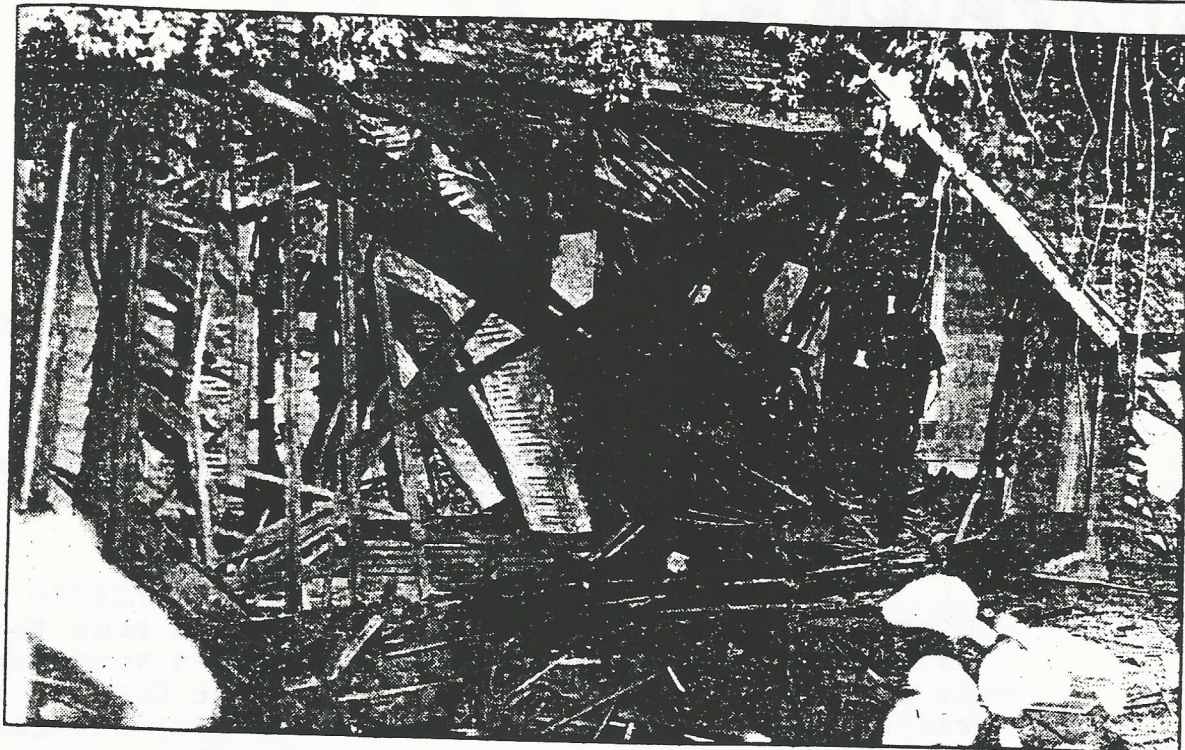
ALL INFORMATION CONTAINED
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DATE 5/29/79 BY alm

b7C

157-887-

EXHIBIT N

(over for letter to
Attorney General Reno)



Scene at 2867 Ohio St. after Aug. 17, 1970, booby-trap explosion that killed Police Officer Larry Minard.

Rice-Poindexter Case Revisited

Telltale Voice on 911

BY JAMES G. PERRY

On Aug. 17, 1970, when a booby-trap bomb exploded and killed Officer Larry Minard, I was in charge of the homicide-assault unit of the Omaha Police Department.

In the previous months, a series of bombings had occurred. Horace Mann School had been damaged by a bomb. The North Police Assembly building was bombed. In July, the Component Concepts building on North 24th Street was destroyed by a bomb. In Des Moines, four bombings had occurred. A booby-trap bomb was found in a tool box under a highway overpass. It didn't explode.

Early in 1969, information from sources had indicated that a Black Panther member from California was in Omaha training with the Omaha group on how to make various explosive devices. This person was identified and observed many times in Omaha and Des Moines.

In the spring of 1970 in Omaha, 19 sticks of quarry dynamite were recovered after a tip from an informant. The informant indicated that more of this explosive was in the possession of people in north Omaha. Speakers were urging young black audiences to use violence to get their rights. Anti-police rhetoric was heard in the speeches of Ernie Chambers and others.

I thought about these things as I drove to the Ohio Street death scene. It was no surprise that this bombing had happened.

I was shocked to see that the explosion had destroyed the residence. I was met by Capt. Bruce Hartford, my immediate supervisor, who was in charge of the crimes-against-persons section. We organized a crime-scene search that required sifting through a wire mesh screen the massive amounts of loose debris left by the explosion. Three agents from the U.S. Bureau of Alcohol, Tobacco and Firearms helped.

It took two days. We found pieces of the suitcase, a triggering mechanism, wiring for an electric blasting cap and,

Two Views

Early Monday, Aug. 17, 1970, the Omaha Emergency 911 center received a call saying that a woman had been heard screaming for help in a deserted house at 29th and Ohio Streets in north Omaha.

As policemen searched the house, a suitcase bomb exploded, killing Officer Larry Minard and injuring other officers. In the days that followed, black activists David Rice and Edward Poindexter were arrested. On the testimony of an informant, Duane Peak, they were convicted of first-degree murder. Supporters of the two men now claim that they were framed.

In the 1997 election campaign for mayor of Omaha, it was revealed that the challenger, Brenda Council, had written a letter four years earlier in support of a reduced sentence for Rice.

Several readers contacted the editorial pages with opinions on the handling of the Rice and Poindexter case. Two of them express opposing views today. Dr. Mendenhall is an Omaha dentist and political activist. Lt. Perry is a retired Omaha police officer who headed the investigation of Minard's death.

Maybe No 'Criminal'

BY FRANCES MENDENHALL

It always smells when a political candidate accuses another candidate of being soft on a crime, as Mayor Daub tried to do in his re-election campaign against Brenda Council. There are certain facts that are needed to understand the conviction of David Rice and Edward Poindexter.

Maybe No 'Criminal'

BY FRANCES MENDENHALL

I was shocked to see that the explosion had destroyed the residence. I was met by Capt. Bruce Hartford, my immediate supervisor, who was in charge of the crime-against-persons section. We organized a crime-scene search that required sifting through a wire mesh screen the massive amounts of loose debris left by the explosion. Three agents from the U.S. Bureau of Alcohol, Tobacco and Firearms helped.

It took two days. We found pieces of the suitcase, a triggering mechanism, wiring for an electric blasting cap and, sadly, small pieces of flesh from Minard's body. (These were placed in a bucket and later given a decent burial.)

Investigation showed that a phony phone call was made to 911 in which a male voice stated that there was "a woman screaming for help at 2867 Ohio." Officers Minard and John Tess were the first to arrive. Other officers also responded. Minard and Tess went through a back door. They heard no sounds indicating anyone's presence. Minard observed a suitcase lying on its side. He moved the suitcase. It blew up, killing him instantly. Tess suffered injuries that forced him to take a disability pension.

The break that started to put names on the suspects came when Officer Marvin McClarty gave Sgt. Pitmon Foxall the name of a suspect who had been seen carrying a suitcase the night of the bombing.

Sergeant Foxall could not locate Duane Peak, the name given, but did find Donald Peak, his brother. Foxall brought Donald in for an interview.

Sergeant Foxall sat his tape recorder on the desk between him and Donald Peak. Foxall puffed on his pipe, saying nothing. He played a tape recording of the 911 call made by the male about a woman screaming for help. Foxall said nothing until he had played the recording three times. He then asked Peak, "Whose voice was that, Donald?" Peak replied, "It's Duane's, but he just carried the suitcase to that house."

Donald Peak gave further details about the transportation of this bomb, but I have gone into detail about his identification of the voice on the recording because some people through the years have claimed that Duane Peak did it make the call, or they claimed that the voice was not the voice of Duane Peak. Some leading citizens have made these assertions. But Donald Peak said it was the voice of his other, Duane. And Duane said after his arrest, and at his trial, that he had made the call. Duane Peak was arrested by Omaha police with assistance and information provided by the local FBI.

The FBI agents were thanked for their assistance and, as far as I know, never talked to Peak or had any reason to. His involvement was nothing more than I have related — a riot. The reason I can say this is that I was in charge of aspects of this investigation. Never did a report made by the FBI or concerning the FBI come to my attention regarding this case.

Sgts. Jack Swanson and Robert Pfeffer went to David Peak's house to arrest him. They discovered dynamite, wires, wire cutters, briefcases and suitcases that appeared to be booby-trap devices.

Duane Peak, when arrested, gave a full and complete statement as to his involvement. He implicated Rice, Poindexter and others in the crime. Yes, there were other people who were never charged. The county attorney charged only the main actors in this case — wisely so, due to the racial unrest prevailing at the time.

Peak was placed in the county jail in Fremont, Neb., where he was held until trial. Two Omaha police officers were assigned to the County Attorney's Office. They were Sgts. William Coleman and Aaron Dailey. Their assignment was to interview Duane Peak and follow up leads for the County Attorney's Office in its preparation for the trial of Rice and Poindexter.

Peak was never interviewed or even spoken to by any Omaha police officers other than Coleman and Dailey.

Senator Chambers has numerous times implied that Peak's reluctance to testify in a morning session, and his stiffening in the afternoon with reddened eyes, were signs that he was physically worked over to get him to say what the prosecutors wanted the jury to hear. This is an insult to the integrity of those two officers who worked so long and hard on this case.

David Rice and Edward Poindexter were arrested, tried and convicted of this crime. They never requested a lie detector test. They have in the last 27 years made numerous legal appeals regarding searches and judicial errors and have refused a multitude of other attempts to free themselves on legal technicalities. They have never expressed remorse for their actions or implicated others. The charge of murder does not have a statute of limitations. This might explain why the 15 or 16 people who were arrested in this case along with others not charged might have an interest in freeing the two.

I hope that relating some of the facts and causes in this case brings some truth, for a change, to the discussion of what occurred early on that morning so long ago.

It always smells when a political candidate accuses another candidate of being soft on a crime, as Mayor Daub tried to do in his re-election campaign against Brenda Council. There are certain facts that are needed to understand the conviction of David Rice and Edward Poindexter.

People from all walks of life, including a former governor and professionals in many areas, question the trial that resulted in the conviction of Rice and Poindexter. A partial list of people who had written to support Rice's commutation named 66 individuals, including myself. There have been hundreds of others. Amnesty International has demanded a new trial. Labor groups, civil rights groups and religious groups have expressed their support.

All because the original trial strongly resembled a frame-up.

The prosecution's main witness, a 15-year-old named Duane Peak, changed his story repeatedly before implicating Rice and Poindexter. The prosecution presented Peak as having collaborated with Rice and Poindexter to plant the bomb that killed Officer Minard. According to their version, Peak, directed by Rice and Poindexter, called 911, luring the police to the house where the bomb waited.

But the tape of the 911 call was not available during the trial. Some years later a copy of the tape was found; some people who heard it say the voice on it belonged to a much older man, not Duane Peak.

Furthermore, when Rice and Poindexter obtained related documents from the FBI through a Freedom of Information Act request, the documents included a quote in which Glenn Gates of the Omaha Police Department asked that the FBI not make the tape available because it "might be prejudicial to the police murder trial."

The handling of the 911 tape shows Peak's lack of credibility as well as the appearance of an orchestrated effort between the police and the FBI to frame Rice and Poindexter.

Peak continued to be inconsistent during legal proceedings. In the morning, his testimony supported Rice and Poindexter's innocence. But after a break requested and granted to the prosecution, a new Duane Peak, now wearing sunglasses, testified that Rice and Poindexter did indeed provide the material for the bomb and that the three collaborated to set up the trap for the police.

When defense attorney David Herzog asked him to remove his sunglasses, there was an audible gasp in the courtroom. Peak's eyes were swollen. He testified that he was scared of the police.

Peak disappeared within months of the trial and has not been interviewed by the media since. (KETV's Ben Gray, however, tells me that he knows where Peak is, so hopefully this will change soon.)

The evidence that Rice and Poindexter had bomb materials was unconvincing and could easily have been planted by the police. The search of Rice's house was done with an illegal warrant. The police somehow failed to take pictures of the bomb materials in the house, but, for reasons unexplained, photographed them in the trunk of the police car.

Traces of dynamite were found in the pockets of Rice and Poindexter after the police took their clothes from them but were not found on their hands.

In another document obtained from the FBI by a Freedom of Information Act request, the names of Rice and Poindexter appeared on a list of targeted individuals. People of many persuasions were on this list, including civil rights leaders, religious figures and feminists. This was part of the FBI's counterintelligence program, COINTELPRO.

Although two courts overturned the conviction, a higher court reinstated it based not on evidence but jurisdiction. By then the time for consideration in the court that held jurisdiction had expired.

Unanimous recommendations by the Nebraska Parole Board for a commutation that would lead to the release of Rice and Poindexter have been stopped by the Pardons Board (the governor, the attorney general and the secretary of state).

Why are the particulars of David Rice's trial an issue now? Simply this: The "criminal" that Brenda Council was accused of being soft on was probably not a criminal at all. Nonetheless, those seeking a fair trial must now go outside the state and ask the Senate Intelligence Committee to reopen an investigation of J. Edgar Hoover's COINTELPRO because most local politicians won't get involved.

Our governor and attorney general posture as tough on crime in this case, especially in their role on the Pardons Board. Then the mayor, in the heat of a campaign, joined the chorus. Brenda Council, however, is tough enough to stand behind men who were probably wrongly convicted, despite the political cost.

Nebraska World-Herald & June 19, 1997